

House Bill 1273 (AS PASSED HOUSE AND SENATE)

By: Representatives O'Neal of the 146th, Talton of the 145th, and Morris of the 155th

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to security deposits, so as to change certain provisions regarding placement of security deposits in escrow accounts; to amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to dispossessory proceedings, so as to provide that a landlord may initiate dispossessory proceedings immediately after refusal by tenant of demand for possession; to provide that a service by posting the summons to the premises and mailing a copy to the defendant shall be sufficient for entry of a default judgment for possession in the absence of an answer being filed; to provide for the payment of certain sums into the registry of the court; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to security deposits, is amended by striking Code Section 44-7-31, relating to placement of security deposits in escrow accounts, and inserting in its place a new Code Section 44-7-31 to read as follows:

"44-7-31.

Except as provided in Code Section 44-7-32, whenever a security deposit is held by a landlord or ~~his~~ such landlord's agent on behalf of a tenant, such security deposit shall be deposited in an escrow account established only for that purpose in any bank or lending institution subject to regulation by this state or any agency of the United States government.

The security deposit shall be held in trust for the tenant by the landlord or ~~his~~ such landlord's agent except as provided in Code Section 44-7-34. Tenants shall be informed in writing of the location ~~and account number~~ of the escrow account required by this Code section."

SECTION 1.1.

Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to dispossessory proceedings, is amended by striking in its entirety subsection (a) of Code Section 44-7-50, relating to demand for possession and procedure upon tenant's refusal, and inserting in lieu thereof the following:

"(a) In all cases where a tenant holds possession of lands or tenements over and beyond the term for which they were rented or leased to the tenant or fails to pay the rent when it becomes due and in all cases where lands or tenements are held and occupied by any tenant at will or sufferance, whether under contract of rent or not, when the owner of the lands or tenements desires possession of the lands or tenements, the owner may, individually or by an agent, attorney in fact, or attorney at law, demand the possession of the property so rented, leased, held, or occupied. If the tenant refuses or fails to deliver possession when so demanded, the owner or the agent, attorney at law, or attorney in fact of the owner may immediately go before the judge of the superior court, the judge of the state court, or the clerk or deputy clerk of either court, or the judge or the clerk or deputy clerk of any other court with jurisdiction over the subject matter, or a magistrate in the district where the land lies and make an affidavit under oath to the facts. The affidavit may likewise be made before a notary public, subject to the same requirements for judicial approval specified in Code Section 18-4-61, relating to garnishment affidavits."

SECTION 1.2.

Said article is further amended by inserting at the end of Code Section 44-7-51, relating to issuance of summons, service, time of answer, and defenses and counterclaims, the following:

"(c) If service is by posting a copy of the summons and the affidavit on the door of the premises and mailing a copy of the summons and the affidavit to the defendant, as provided in subsection (a) of this Code section, the court shall have jurisdiction to enter a default judgment for possession of the premises in the absence of an answer being filed, but in such instance a default judgment for money owed may not be entered unless the defendant files an answer or otherwise makes an appearance in the case."

SECTION 1.3.

Said article is further amended by striking in its entirety Code Section 44-7-56, relating to appeal and possession and payment of rent pending appeal, and inserting in lieu thereof the following:

1 "44-7-56.

2 Any judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7 of
3 Title 5, provided that any such appeal shall be filed within seven days of the date such
4 judgment was entered and provided, further, that, after the notice of appeal is filed with the
5 clerk of the trial court, the clerk shall immediately notify the trial judge of the notice of
6 appeal and the trial judge may, within 15 days, supplement the record with findings of fact
7 and conclusions of law which will be considered as a part of the order of the judge in that
8 case. If the judgment of the trial court is against the tenant and the tenant appeals this
9 judgment, the court may upon motion of the landlord and upon good cause shown order the
10 tenant shall be required to pay into the registry of the court all sums found by the trial court
11 to be due for rent in order to remain in possession of the premises. The tenant shall also
12 be required to pay all future rent as it becomes due into the registry of the trial court
13 pursuant to paragraph (1) of subsection (a) of Code Section 44-7-54 until the issue has been
14 finally determined on appeal."

15 **SECTION 2.**

16 All laws and parts of laws in conflict with this Act are repealed.